

F I L E D

Clerk

District Court

1 CARLSMITH BALL LLP
2 Carlsmith Building, Capitol Hill
3 P.O. Box 5241
4 Saipan, MP 96950-5241
5 Tel No. 670.322.3455
6 Fax No. 670. 322-3368

AUG - 9 2005

For The Northern Mariana Islands
By _____
(Deputy Clerk)

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10 Attorneys for Defendant
11 Maeda Pacific Corporation

12 UNITED STATES DISTRICT COURT

13 FOR THE

14 NORTHERN MARIANA ISLANDS

15 TOSHIHIRO TAKAHASHI,

16 CIVIL ACTION NO. CV _____
CV 05 0026

17 Plaintiff,

18 vs.

NOTICE OF REMOVAL; EXHIBITS

19 MAEDA PACIFIC CORPORATION,

Trial: No Trial Date Set

20 Defendant.

21 **NOTICE OF REMOVAL**

22 Defendant Maeda Pacific Corporation, through its attorneys, Carlsmith Ball LLP, files
23 this Notice of Removal pursuant to, and in accordance with, 28 U.S.C. §1446. Defendant has the
24 right to remove this civil action filed in the Superior Court of the Commonwealth of the Northern
25 Mariana Islands, Civil Action No. 05-0287B, to this federal court pursuant to 28 U.S.C. §§1332
26 and 1441.

27 The removing party respectfully shows this Court:

28 1. Maeda Pacific Corporation is the Defendant in the above-entitled action.

1 2. The above entitled civil action was filed in the Superior Court of the Commonwealth of
2 the Northern Mariana Islands as Civil Action No. 05-0287B ("Civil Action No. 05-0287B") and
3 is now pending.

4 3. On July 19, 2005, Defendant Maeda Pacific Corporation was served with a Summons and
5 Complaint in Civil Action No. 05-0287B by personal service upon its office in Saipan,
6 Commonwealth of the Northern Mariana Islands ("CNMI").

7 4. Civil Action No. 05-0287B involves the Plaintiff who is a citizen of Japan and Defendant
8 which is a corporation duly incorporated in the Territory of Guam with its principal place of
9 business being the Territory of Guam.

10 5. Defendant Maeda Pacific Corporation filed its answer in Civil Action No. 05-0287B on
11 August 8, 2005. A copy of such Answer is attached hereto marked as Exhibit A.

12 6. The Plaintiff in Civil Action No. 05-0287B does not specify the amount being sought for
13 compensatory damages, however, Plaintiff makes the following allegations regarding the
14 injuries he allegedly sustained:

15 (a) Plaintiff sustained multiple bruises and lacerations on and throughout the
16 entire body;

17 (b) Plaintiff suffered intense and excruciating pain, serious physical injuries,
18 and was caused to be committed to a hospital;

19 (c) Plaintiff becomes sore, lame and disordered and underwent great pain;

20 (d) Plaintiff will in the future suffer and undergo great pain and will be
21 hindered and prevented from transacting and attending to necessary and lawful affairs and usual
22 duties.

23 (e) Plaintiff has suffered diminished quality of life.

(f) Plaintiff has lost and was deprived of and in the future will lose and be deprived of divers gains and profits, including loss of income.

Plaintiff requests damages as follows:

(a) Compensatory damages and medical care and expenses, bodily injury, loss of earnings;

(b) Future damages for pain and suffering, loss or impairment of earning capacity, necessary and reasonable medical expenses.

(c) Damages for pain and suffering, emotional distress, mental anguish and diminished quality of life.

Further reference to Plaintiff's Complaint (paragraph 10) recites the requirement that Defendant maintain liability insurance in a minimum amount of \$100,000.00. Additionally, paragraph 11 of Plaintiff's Complaint states:

(11) Upon information and belief, Defendant purchased the Comprehensive General Liability Insurance as required in the Agreement. To the extent of the policy limit purchased by Defendant, Defendant's insurance is liable for the damages caused by Defendant.

Although a specific damage amount is not stated, a fair reading of the nature of Plaintiff's alleged injuries and claims for damages leads to the conclusion that Plaintiff is seeking damages in excess of \$75,000.00 and therefore the amount in controversy jurisdictional requirement of 28 U.S.C. §1332(a) is satisfied.

7. This Notice of Removal is filed within 30 days after service of the Complaint on Defendant Maeda Pacific Corporation.

1 8. Promptly after filing this Notice of Removal, Defendant will give written notice to the
2 Plaintiff and file a copy of the Notice of Removal with the Clerk of the Superior Court of the
3 CNMI.

4 9. Defendant files herewith a copy of all process, pleadings and orders serviced on it in
5 Superior Court Civil Action No. 05-0287B. These pleadings are attached hereto as Exhibit Nos.
6 B and C.

8 WHEREFORE, Defendant requests that Civil Action No. 05-0287B in the Superior Court
9 of the Commonwealth of the Northern Mariana Islands be removed from the CNMI Superior
10 Court and that this Court determine the proper disposition of this action.

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13 CARLSMITH BALL LLP
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16 DATED: Saipan, MP, August 9, 2005.

17 
18 JOHN D. OSBORN
19 Attorneys for Defendant
20 Maeda Pacific Corporation
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9 Attorneys for Defendant
10 Maeda Pacific Corporation

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[Signature]

IN THE SUPERIOR COURT

OF THE

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

TOSHIHIRO TAKAHASHI,

CIVIL ACTION NO. 05-0287B

12 Plaintiff,

13 vs.

**ANSWER OF DEFENDANT MAEDA
PACIFIC CORPORATION**

14 MAEDA PACIFIC CORPORATION,

15 Defendant.

16

17

18 Comes now the Defendant Maeda Pacific Corporation ("Maeda") and for its answer to
19 the Complaint filed herein by Plaintiff Toshikiro Takahashi ("Takahashi") states and avers as
20 follows:

21

22 1. Maeda denies each and every, all and singular, the allegations contained in Plaintiff's
23 Complaint except as same are herein specially admitted.

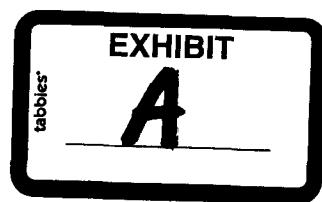
24 2. Paragraph 1 of the Complaint is denied.

25 3. Upon information and belief, paragraph 2 of the Complaint is admitted.

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1 4. In answer to paragraph 3 of the Complaint it is denied that Defendant is a corporation
2 duly organized under the laws of the CNMI. The remaining allegations of paragraph 3 are
3 admitted.

4 5. In answer to paragraph 4 of the Complaint, Defendant re-states and incorporates herein
5 its answers to Paragraphs 1-3 of Plaintiff's Complaint hereinabove stated.

6 6. Paragraph 5 of the Complaint is admitted.

7 7. Paragraph 6 of the Complaint is admitted.

8 8. In answer to paragraph 7 of the Complaint, Defendant admits the scope of work was
9 conducted by Defendant as an independent contractor. The remaining allegations of paragraph 7
10 state a legal conclusion to which no response is required. To the extent such remaining
11 allegations of paragraph 7 attempt to state a claim against Defendant, same are denied.

12 9. Paragraph 8 of the Complaint is admitted.

13 10. Paragraph 9 of the Complaint is admitted.

14 11. In answer to paragraph 10 of the Complaint it is admitted the Agreement requires
15 Defendant to maintain liability insurance in the minimum amounts stated.

16 12. In answer to paragraph 11 of the Complaint it is admitted that Defendant maintains
17 liability insurance in at least the minimum amounts required by the Agreement. Defendant is
18 without sufficient information to form a belief as to the remaining allegations of paragraph 11
19 and therefore denies same.

20 23. Paragraph 12 of the Complaint is admitted.

21 24. Paragraph 13 of the Complaint is denied.

22 25. Defendant is without sufficient information to form a belief as to the truth of the
23 allegations of paragraphs 14, 15 and 16 of the Complaint and therefore denies same.

1 16. In answer to paragraph 17 of the Complaint, Defendant re-alleges and incorporates herein
2 its answers to Paragraphs 1-16 hereinabove stated.

3 17. Paragraph 18 is admitted.

4 18. Paragraph 19 of the Complaint states a legal conclusion to which no answer is required
5 and further such paragraph contains no factual allegations which require a response. To the
6 extent that said paragraph 19 attempts to allege a claim against Defendant, same is denied.

7 19. Paragraph 20 of the Complaint is denied.

8 20. In answer to paragraph 21 of the Complaint, Defendant denies that it or any of its agents
9 and employees acted in a reckless, careless and/or negligent manner thereby causing Plaintiff's
10 alleged injuries. As to the remaining allegations of paragraph 21, Defendant is without sufficient
11 information to form a belief as to the truth of such allegations and therefore denies same.

12 21. In answer to paragraph 22 of the Complaint, Defendant re-alleges and incorporates herein
13 its answers to paragraphs 1-21 hereinabove set forth.

14 22. Paragraph 23 of the Complaint states a legal conclusion to which no answer is required
15 and further such paragraph contains no factual allegations which require a response. To the
16 extent that said paragraph 23 attempts to allege a claim against Defendant, same is denied.

17 23. Paragraph 24 of the Complaint is denied.

18 24. In answer to paragraph 25 of the Complaint, Defendant denies it acted in a reckless,
19 careless and/or negligent manner thereby causing Plaintiff's alleged failure to see the alleged
20 hazardous item. Defendant is without sufficient knowledge to form a belief as to the truth of the
21 remaining allegations of paragraph 25 and therefore denies same.

22 25. In answer to paragraph 26 of the Complaint, Defendant re-alleges and incorporates herein
23 its answers to paragraphs 1-25 hereinabove stated.

26. Defendant is without sufficient information to form a belief as to the truth of the allegations contained in paragraphs 27, 28 and 29 of the Complaint and therefore denies same.

FURTHER ANSWER OF DEFENDANT MAEDA PACIFIC CORPORATION

Comes now the Defendant Maeda Pacific Corporation and for its further answer to the Complaint filed herein states and avers as follows:

1. Defendant denies it was in any manner negligent or responsible for the accident and/or injuries alleged by Plaintiff in his Complaint.

2. Upon information and belief the proximate cause of the alleged accident and injuries recited in Plaintiff's Complaint were the actions of Plaintiff, himself, and therefore Plaintiff's claim is barred and/or diminished by the affirmative defense of contributory negligence and/or comparative fault.

3. Upon information and belief the alleged accident and injuries recited in Plaintiff's Complaint may have been the result of the negligence of others.

4. Defendant reserves the right to amend its answers filed herein to allege such other and further defenses as may be revealed through discovery.

WHEREFORE Defendant, Maeda Pacific Corporation, prays that Plaintiff take naught by his Complaint filed herein. That the costs of this action be assessed to Plaintiff and for such other and further relief as the Court deems just and equitable in the premises.

CARL SMITH BALL, LLP

DATED: Saipan, MP, August 8, 2005.

~~JOHN D. OSBORN #F0172~~
Attorneys for Defendant
Maeda Pacific Corporation

1 Commonwealth of the Northern Mariana Islands, Government (hereafter referred to as
2 "Agreement") for construction of the Garapan Tourist District Revitalization Hotel Street
3 (Coral Tree Avenue).

4 6. Upon information and belief, part of the Agreement requires Defendant to furnish all
5 materials, labor, equipment, tools and services necessary to perform in a workmanlike
6 manner all work required for the completion of the Project, as described in the Scope of
7 Work and in strict compliance with the Contract Documents, for the firm fixed price of
8 One Million Eight Hundred Forty Two Thousand and No cents (\$1,842,000.00).

9 7. Upon information and belief, Part of the Agreement states that the Defendant conducts
10 the Scope of Work as an Independent Contractor. Accordingly, Defendant in performing
11 its duties under the Agreement, acted and performed on its own behalf and remained
12 liable for any injuries caused by the negligence of Defendant, its agents and employees.

13 8. Upon information and belief, part of the Agreement states that the Defendant will hold
14 harmless the Commonwealth from any and all claims, demands, suits, and causes of
15 action whatsoever involving third parties arising out of or connected with the negligent
16 performance of the Contract.

17 9. Upon information and belief, part of the Agreement states that the Defendant shall take
18 all precautions necessary to protect persons and property including, but not limited to,
19 providing, erecting, and maintaining all necessary barricades, suitable and sufficient red
20 lights, danger signals, and signs.

21 10. Upon information and belief, part of the Agreement requires Defendant to purchase a
22 Comprehensive General Liability Insurance which shall have the following minimum
23 amounts: personal injury, \$100,000.00 each person, and \$300,000.00 each occurrence;
24 Property damage, \$50,000.00 each occurrence, and \$100,000.00 aggregate.

25 11. Upon information and belief, Defendant purchased the Comprehensive General Liability
26 Insurance as required in the Agreement. To the extent of the policy limit purchased by
27 Defendant, Defendant's insurance is liable for the damages caused by Defendant.

28 12. During the time of construction, sometime in March, 2005 Defendant, its agents or

1 employees was constructing, at least in part, the sidewalk in front of Remington's Club,
2 the southern part of Coral Tree Avenue.

3 13. On or about March 17, 2005, Defendant placed two metal pipes in one of the sidewalks,
4 particularly in front of Remington's Club, the southern part of Coral Tree Avenue.
5 14. The metal pipe stuck out of the sidewalk, with low visibility to pedestrian creating a
6 hazardous and dangerous condition to pedestrians.
7 15. The metal pipes did not have any warning lights, warning signs or barricade to provide
8 adequate and sufficient warning about the dangerous condition the metal pipe created.
9 16. On or about March 17, 2005, Plaintiff was using the sidewalk and suddenly rammed into
10 the metal pipe.

11

12 **CAUSES OF ACTION: NEGLIGENCE, RECKLESSNESS**

13 **(Creating Hazardous Condition on Sidewalk)**

14 17. Paragraphs one (1) through sixteen (16) of the complaint are incorporated as if fully set
15 out here.
16 18. At all the times mentioned, Defendant was engaging in construction, including the
17 construction of the sidewalks in front of Remington Club in Garapan, Saipan.
18 19. Defendant had a duty to reasonably and prudently avoid placing hazardous and dangerous
19 items in the sidewalks.
20 20. Defendant breached its duty when Defendant, its agents and employees placed the metal
21 pipe in the sidewalk, where people are expected to routinely use as walkway.
22 21. As a direct and proximate result of the recklessness, carelessness, and negligence of
23 Defendant, its agents and employees, Plaintiff rammed into the metal pipe and upon
24 impact, Defendant suffered immediate and excruciating pain and Defendant violently fell
25 to the ground causing serious personal injuries resulting in hospitalization, severe pain
26 and suffering and mental and emotional distress.

27

28

(No Warning Of Hazardous Condition On Sidewalk)

1 22. Paragraphs one (1) through twenty one (21) of the complaint are incorporated as if fully
2 set out here.

3 23. Defendant has a duty to take all precautions necessary to protect persons and property
4 including, but not limited to, providing, erecting, and maintaining all necessary
5 barricades, suitable and sufficient red lights, danger signals, and signs warn pedestrians of
6 the hazardous condition, specifically the metal pipe placed on the walkway.

7 24. Defendant breached its duty when Defendant, its agents and employees failure to place
8 any warning signs whatsoever causing the metal pipe to be dangerous to pedestrians,
9 specifically Plaintiff.

10 25. As a direct and proximate result of Defendant's recklessness, carelessness, and
11 negligence Plaintiff was unable to see the hazardous item (metal pipe) and violently
12 collided with the metal pipe and upon impact, Defendant suffered immediate and
13 excruciating pain and Defendant violently fell to the ground causing serious personal
14 injuries resulting in hospitalization, severe pain and suffering and mental and emotional
15 distress.

16

17 **GENERAL INJURIES AND DAMAGES**

18 26. Paragraphs one (1) through twenty five (25) is incorporated herein as if fully set out here.

19 27. As a result of Defendant's negligence, Plaintiff sustained multiple bruises and lacerations
20 on and throughout the entire body. Plaintiff has suffered intense and excruciating pain,
21 serious physical injuries, and has been caused to be committed to a hospital and to the
22 attention, care and treatment of skilled physicians and nurses.

23 28. In addition to these injuries, Plaintiff became sore, lame, and disordered, and during all of
24 which time Plaintiff suffered and underwent great pain, and in the future will suffer and
25 undergo great pain, and was hindered and prevented and, in the future will be hindered
26 and prevented from transacting and attending to necessary and lawful affairs and usual
27 duties, and has suffered diminished quality of life.

28 29. Plaintiff has also lost and was deprived of and in the future will lose and be deprived of,

1 divers gains and profits, including lost of income, and advantages which Plaintiff might
2 and otherwise would have derived and acquired.

3
4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff requests judgment as follows:

6 1. Against Maeda Pacific Corporation for compensatory damages and for medical care and
7 expenses, bodily injury, and loss of earnings, in the amount to be proven at trial;

8 2. Against Maeda Pacific Corporation for *future damages* such as pain and suffering, loss or
9 impairment of earning capacity, and necessary and reasonable medical expenses, in the
10 amount to be proven at trial;

11 3. Against Maeda Pacific Corporation for pain and suffering, emotional distress, mental
12 anguish and diminished quality of life, in the amount to be proven at trial;

13 4. Against Maeda Pacific Corporation for costs and reasonable attorney's fees; and,

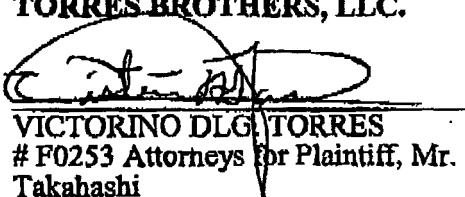
14 5. For such other and further relief to which Plaintiff is entitled to receive at law and/or in
15 equity even though not demanded for in any of his pleadings.

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17 **DEMAND FOR JURY TRIAL**

18 Plaintiff requests a jury trial of his peers on all issues so triable.

19
20 DATED: 07/07/2005.

21 TORRES BROTHERS, LLC.

22 
23 VICTORINO DLG TORRES
24 # F0253 Attorneys for Plaintiff, Mr.
25 Takahashi

1 TORRES BROTHERS, LLC.
VICTORINO DLC. TORRES, ESQ.
2 Attorneys at Law #FO253
P.O. Box 501856

3 Saipan, MP 96950
Bank of Guam Bld., 3rd Flr.
4 Tel.: (670) 233-5506
Fax: (670) 233-5510
5 Attorneys for Plaintiff

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**IN THE SUPERIOR COURT
OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

9 TOSHIHIRO TAKAHASHI,

CIVIL ACTION NO. 05-02870

10 Plaintiff,

11 | vs.

11 | vs.

SUMMONS

12 MAEDA PACIFIC CORPORATION,

13 | **Defendant.**

16 TO: MAEDA PACIFIC CORPORATION

17 YOU ARE HEREBY COMMANDED and notified to file any answer you wish to make
18 to the Complaint being filed against you, a copy of which is given to you herewith, within twenty
19 (20) days after service of this Summons upon you, and deliver or mail a copy of your answer to
20 the TORRES BROTHERS, LLC., Attorney at Law, whose address is stated above, as soon as
21 practicable after filing your answer or sending it to the Clerk of Court for filing.

Your answer should be in writing and filed with the Clerk of Court at the Superior Court
for the Commonwealth of the Northern Mariana Islands, in the House of Justice -- Guma Hustisia
-- Imwal Aweewe. It may be prepared and signed for you by your counsel and sent to the Clerk
of Court by messenger or mail. It is not necessary for you to appear personally until further
notice.

If you fail to file an answer in accordance with the Summons, judgment by default may be taken against you for the relief demanded in the Complaint.



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2 BY ORDER OF THIS COURT.

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4 Dated this 19 day of July, 2005.

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[Signature]
Clerk of Court
Superior Court of the Commonwealth of the
Northern Mariana Islands

2 of 2